

SEP 27 2007

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

**CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS**

FOR THE NINTH CIRCUIT

FLOYD H. NELSON,

Plaintiff - Appellant,

v.

JEANNE WOODFORD, individually
and/or in her official capacity as director
of the California Department of
Corrections; et al.,

Defendants - Appellees.

No. 06-15630

D.C. No. CV-04-03684-CRB

MEMORANDUM*

Appeal from the United States District Court
for the Northern District of California
Charles R. Breyer, District Judge, Presiding

Submitted September 24, 2007**

Before: CANBY, TASHIMA, and RAWLINSON, Circuit Judges.

Floyd H. Nelson appeals pro se from the district court's summary judgment
for defendants in Nelson's 42 U.S.C. § 1983 action alleging that he was

* This disposition is not appropriate for publication and is not
precedent except as provided by 9th Cir. R. 36-3.

** The panel unanimously finds this case suitable for decision without
oral argument. *See* Fed. R. App. P. 34(a)(2).

unconstitutionally prohibited from receiving sexually explicit and obscene publications while a California state prisoner. We have jurisdiction pursuant to 28 U.S.C. § 1291. We review de novo a district court's grant of summary judgment, *Barnett v. Centoni*, 31 F.3d 813, 815 (9th Cir. 1994) (per curiam), and we affirm.

The district court properly concluded that the regulations prohibiting Nelson's possession of obscene or sexually explicit material, 15 Cal. Code Reg. §§ 3006(c)(15) & (17), respectively, are constitutional because the regulations' underlying policies are reasonably related to legitimate penological interests. *See, e.g., Mauro v. Arpaio*, 188 F.3d 1054, 1058-63 (9th Cir. 1999) (en banc) (upholding Arizona prison policy banning possession of sexually explicit material against First Amendment challenge). The district court also properly concluded that Nelson failed to demonstrate "that there is a genuine issue of material fact regarding the applicability of the regulations to the [withheld] materials." *Bahrampour v. Lampert*, 356 F.3d 969, 973 (9th Cir. 2004). Accordingly, summary judgment was proper.

AFFIRMED.